

Title 16

HISTORIC PRESERVATION

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Chapter 16.02

PURPOSE

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16.02.010 Findings. The City Council finds and declares as a matter of public policy that the protection, enhancement, perpetuation, preservation and use of improvements and sites of educational, architectural, engineering, geographical, archeological, historical or cultural significance located within the city are a public necessity and are required in the interest of the prosperity, education, civic pride, health, safety, general welfare and quality of life of the people of Council Bluffs. (Ord. 5148 § 1 (part), 1993)

16.02.020 Purpose. The purposes of this title are as follows:

- (1) To effect and accomplish designation, protection, enhancement, perpetuation and preservation of such improvements and sites which represent or reflect significant elements of the city's, the state's or the nation's educational, architectural, engineering, geographical, archeological, historical or cultural heritage;
- (2) To develop and encourage appropriate settings for such improvements, by ensuring that new construction in historic districts is in general physical harmony, as to improvements that are within the purview of this title with buildings of historic design;
- (3) To stabilize and/or improve the economic vitality of such improvements and sites;
- (4) To stabilize and/or improve the aesthetics of such improvements and sites;
- (5) To foster civic pride in the beauty and noble accomplishments of the past;
- (6) To safeguard the city's historic and cultural heritage as embodied and reflected in such improvements, sites, landmarks and historic districts;
- (7) To protect and enhance the city's attraction to tourists and visitors and provide support and stimulus to business and industry;
- (8) To strengthen the economy of the city; and
- (9) To promote the landmarks, landmark sites and historic districts for the education, prosperity, stimulation and welfare of the people of the city. (Ord. 5148 § I (part), 1993)

Chapter 16.03

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16.03.005 Definitions. The words and phrases set out in this chapter, for the purpose of this title, shall be interpreted as having the meanings attributed thereto in this chapter. (Ord. 5148 § 1 (part), 1993)

16.03.010 Alteration. “Alteration” means any act or process which causes a material change to any landmark, landmark site, or to the exterior features of any improvement, located within an historic district. (Ord. 5148 § 1 (part), 1993)

16.03.020 Alteration permit. “Alteration permit” means a permit issued by the Building Division which is necessary before any work can be started which will occasion any alteration, removal or demolition, construction, reconstruction, restoration, remodeling or other material changes to any exterior feature including the interior of any structure that clearly alters the character of the external appearance and is clearly visible from the outside of the structure on a landmark, landmark site, or within an historic district. The permit’s issuance is dependent on the Heritage Preservation Commission’s approval of a Certificate of Appropriateness. (Ord. 5148 § 1 (part), 1993)

16.03.030 Building Division. “Building Division” means the Building Division of the Department of Public Works of the City. (Ord. 5148 § 1 (part), 1993)

16.03.040 Capable of earning a reasonable return. “Capable of earning a reasonable return” means the activity, under reasonable, efficient and prudent management, of earning a reasonable return. (Ord. 5148 § 1 (part), 1993)

16.03.050 Certificate of Appropriateness. “Certificate of Appropriateness” means a certificate from the Heritage Preservation Commission approving plans for alteration, construction, removal or demolition of an improvement on a landmark, landmark site or in an historic district. The certificate must be obtained before an alteration permit will be issued. (Ord. 5148 § 1 (part), 1993)

16.03.055 Certificate of Economic Hardship. “Certificate of Economic Hardship” means a document issued by the Heritage Preservation Commission which acknowledges an exception as herein defined and which authorizes an alteration or activity which:

- a. Creates a material change in appearance, or the removal or demolition, of a landmark, landmark site or of a structure within an historic district; and
- b. Requires an alteration permit; and
- c. For which a Certificate of Appropriateness has been or would be denied; however, a Certificate of Economic Hardship shall be issued only upon a showing that the property owner will be deprived of any reasonable economic return on the property if not allowed to proceed with the requested alteration or activity.

16.03.060 City. “City” means the City of Council Bluffs, Iowa. (Ord. 5148 § 1 (part), 1993)

16.03.065 City Planning Commission. “City Planning Commission” means the Planning Commission of the City of Council Bluffs, Iowa.

16.03.070 Commission. “Commission” means the Heritage Preservation Commission established by this title. (Ord. 5148 § 1 (part), 1993)

16.03.080 Council “Council” means the City Council of the City of Council Bluffs, Iowa. (Ord. 5148 § 1 (part), 1993)

16.03.085 Designation application. “Designation application” means a written nomination or proposal to designate any improvement(s) or site(s) in the city as a landmark, landmark site or historic district. Application for designation on the National Register of Historic Places shall be one form of a designation application. All designation applications shall include, but not be limited to, those six (6) elements listed in Section 16.07.010 of this title.

16.03.090 Director, “Director” means the Director of Community Development. (Ord 5148 § 1 (part), 1993)

16.03.100 Exterior feature. “Exterior feature” means the architectural style, design, details and general arrangement of the outer surfaces, and any part of the interior that if altered would affect the character of the external appearance and is reasonably visible from the outside of the structure, including, but not limited to, the color of paint, the kind, color and texture of the building material and the type of and style of all windows, doors, lights, cornices, roofs, porticos, signs and other fixtures appurtenant to such improvement. In the case of a visible sign, “exterior feature” also means the style, material, size, illumination and location of the sign. (Ord. 5148 § 1 (part), 1993)

16.03.110 Good repair. “Good repair” means a condition which not only meets minimum standards of health and safety, but which also guarantees, continued structural and weather soundness and continued usefulness in keeping with the objective of this title. (Ord. 5148 § 1 (part), 1993)

16.03.115 Historic context. “Historic context” means a specific theme in the prehistory or history of the city during a particular period of time; including particular historic trends and developments related to that specific theme.

16.03.120 Historic district, “Historic district” means contiguous pieces of property of no greater area than one hundred sixty acres under diverse ownership which are designated by the Council pursuant to this title, which:

- (1) are significant in American history, architecture, archaeology, cultural heritage, education, engineering or geography; and
- (2) possess integrity of location, design, setting, materials, skill, feeling and association; and
- (3) are associated with events that have been a significant contribution to the broad patterns of our history; or
- (4) are associated with the lives of persons significant in our past; or
- (5) embody the distinctive characteristics of a type; period; method of construction; represent the work of a master, possess high artistic values; represent a significant and distinguishable entity whose components may lack individual distinction; or
- (6) have yielded, or may be likely to yield, information important in prehistory or history.

16.03.130 Improvement. “Improvement” means any site, development, building, structure, place, work of art or other object that constitutes a physical reconstruction or an addition to real property, or any part of such addition. (Ord. 5148 § 1 (part), 1993)

16.03.140 Improvement parcel “Improvement parcel” means that property which includes a physical addition constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes. The term also includes any unimproved area of land which is treated as a single entity for the purpose of ‘levying real estate taxes. (Ord. 5148 § 1 (part), 1993)

16.03.150 Landmark, “Landmark” means any improvement designated by the council pursuant to this title which has a special character of educational, architectural, engineering, geographical, archeological, historical or cultural significance. (Ord. 5148 § 1 (part), 1993)

16.03.160 Landmark site. “Landmark site” means any parcel or site of real property, part thereof, or abutting parcels having historic or cultural significance which have been designated by the council pursuant to this title, which have a special character of educational, architectural, engineering, geographical, archeological, historical or cultural significance. (Ord. 5148 § 1 (part), 1993)

16.03.170 Material change. “Material change” means a change which would detrimentally affect the historical’, cultural’ or other significant interest of a landmark, a landmark site or an historic district. (Ord. 5148 § 1 (part), 1993)

16.03.190 Owner. “Owner” means an owner or his authorized agent. (Ord. 5148 § 1 (part), 1993)

16.03.200 Person. “Person” means any individual, association, estate or trust, partnership, firm, corporation, public agency or political subdivision, cooperative or other entity. (Ord. 5148 § 1 (part), 1993)

16.03.210 Person in charge. “Person in charge” means the person or persons possessed of the title of an improvement or parcel of land or lessor stated therein, a mortgagee or vendor in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person directly or indirectly in control of an improvement or parcel of land. (Ord. 5148 § 1 (part), 1993)

16.03.220 Zoning Board of Adjustment. “Zoning Board of Adjustment” means the Board of Adjustment of the City of Council Bluffs, Iowa.

Chapter 16.04

HISTORIC PRESERVATION COMMISSION

Sections:

16.04.010	Creation
16.04.020	Composition and term of appointment
16.04.030	Vacancies
16.04.040	Appointments
16.04.050	Term
16.04.060	Removal from office
16.04.070	Conflict of interest
16.04.080	Meetings of the commission
16.04.090	Record keeping
16.04.100	Officers

16.04.010 Creation. There is created in and for the city of Council Bluffs a Historic Preservation Commission which shall consist of seven appointed members all of whom shall serve without compensation. (Ord. 5531 Sec. 2, 2/12/00)

16.04.020 Composition and term of appointment. Initially, the commission shall consist of three members who shall be appointed for a one-year term, two members who shall be appointed for a two-year term, and two members who shall be appointed for a three-year term. Thereafter, all appointments or reappointments shall be for three-year terms. (Ord. 5531 Sec. 3, 2/12/00)

16.04.030 Vacancies. A vacancy shall be filled for the unexpired term of any member whose position becomes vacant in the manner provided in Section 16.04.040 of this code. (Ord. 5531 Sec. 4, 2/12/00)

16.04.040 Appointments. All appointments to the commission shall be made by the Mayor, with approval of the City Council as follows:

(1) The seven members shall be appointed from the duly registered electors residing within the city of Council Bluffs.

(2) In making appointments to the commission the mayor shall take the following factors in consideration: historical expertise, expertise in historical architectural styles, expertise in land economics, expertise in engineering, expertise in architecture, expertise in preservation, expertise in law, expertise in real estate, expertise in building restoration, membership in historical society, membership in preservation group, duly licensed in architecture or residence within a historical district, or property ownership of property in a historical district.

(3) At least one member of the commission shall be a person who does not necessarily possess any of the factors as set forth in subsection (2) of this section.

(Ord. 5531, Sec. 5, 2/12/00)

16.04.050 Term. The term for each commissioner shall expire on December 31st of the third calendar year in which the commissioner has served. However, the commissioner shall remain on the commission for up to thirty-one additional days or until a successor is approved by the city council, whichever shall first occur. (Ord. 5531, Sec.6, 2/12/00)

16.04.060 Removal from office. Commissioners shall serve at the will of the city council and may be removed for good cause. Good cause shall be determined by the city council and may include, but is not limited to, malfeasance, misfeasance, poor attendance, failure to follow applicable legal standards or failure to abide by state laws, city ordinances and commission rules and regulations. (Ord. 5531 Sec. 7, 2/12/00)

16.04.070 Conflict of interest. If any member of the commission at any time has a personal or economic interest in any of the matters being considered, the member shall remove himself or herself from consideration of said matters. (Ord. 5148 § 1 (part), 1993)

16.04.080 Meetings of the commission. The commission shall hold meetings as set forth below:

(1) Annual/Business Meetings. The commission shall hold an annual meeting each year in January. The date, time and location of said meeting shall be determined as provided in the commission's by-laws. The commission shall conduct such other business meetings, not more than once a month, as necessary to timely conduct the business as required by this title. These additional business meetings shall be called by the commission's secretary upon giving public notice as required herein.

(2) Special Meetings. In case of emergency, unique or critical circumstances special meetings may be called by the chair or three members of the commission. Special meetings shall not be called to conduct the commission's normal course of business.

(3) Transaction of Business. (a) The commission shall transact business only at the annual or business meetings. In the case of a special meeting where the majority of members declare emergency, unique or critical circumstances exist, business may be transacted if the commission gives one day public notice and one day written or oral notice to the members of the time, place and reason(s) for the meeting. Unless required by state law or this code, the commission is not required to have a public hearing on matters before it. The commission may, but is not required to, give the public the opportunity to comment on issues at its meetings.

(4) Notice. (a) Notice of meetings shall conform to the requirements of the Open Meetings Act of the state of Iowa. (b) Within not less than five days nor more than twenty days before a public hearing, written notice of the time, place and reason(s) for such hearing shall be given in writing to the applicant and in writing to all persons who have expressed an interest in receiving notice and who have also paid an annual fee to cover the costs of serving notice.

(5) Published Notice. As to all public hearings, not less than five nor more than twenty days' notice of the time, place and reason(s) for the hearing shall be published in a newspaper of general circulation in the city. Notice of annual, business or special meetings need not be published in a newspaper of general circulation.

(6) Open Meetings. All meetings shall conform to the Open Meetings Act of the state of Iowa.

(7) Conduct of Meetings. The commission shall adopt additional rules and regulations for the conduct of business, election of officers or other procedures, and for the conduct of its members except as limited by this title, and shall in any case be consistent with the intent and purpose of this title. In regard to any matter not covered by the by-laws, rules or regulations, the commission shall operate under Robert's Rules of Order, except as otherwise provided by this title.

(8) Quorum. A quorum shall be fifty percent (50%) of the total number of commissions duly appointed and serving. (Ord. 5531 Sec. 8, 2/12/00)

16.04.090 Record keeping. The commission shall keep a record of all of its proceedings for a minimum of ten (10) years. Such records shall include all resolutions and actions including the findings of fact, the presence and absence of members, and the vote of each member. The record shall be filed in the office of the planning division of the department of community development as a matter of public record. The secretary shall be responsible for maintaining the records as required by this section. (Ord. 5531 Sec. 9, 2/12/00)

16.04.100 Officers. The commission shall elect from its membership a chair and vice-chair whose term shall be fixed by the commission pursuant to its bylaws; provided that the terms shall expire at an annual meeting. The chair shall preside over the commission and shall have the right to vote and shall have the right to speak on all matters. The vice-chair, shall in the absence or disability of the chair, perform the act as the chair and shall have the same rights and duties as the chair. If a vacancy shall occur in the office of the chair, the vice-chair shall become the chair for the unexpired portion of the chair's term. In the absence of both the chair and vice-chair, the commissioner with the most seniority shall temporarily act as chair and have the same rights and duties thereof. The secretary shall be designated by the director and shall be a member of the director's staff. (Ord. 5531, Sec. 10, 2/12/00)

Chapter 16.05

POWERS AND DUTIES OF THE COMMISSION AND COMMISSIONERS

Sections:

16.05.010	Designation
16.05.020	Consultant
16.05.030	Cooperation with state preservation officer
16.05.040	Continuing education
16.05.050	Cooperation with private groups
16.05.060	Recommend to the Zoning Board of Adjustment
16.05.070	Duties and powers subject to the approval of the City Council
16.05.080	Power to identify historic properties.
16.05.090	Power to prepare historic preservation plans.

16.05.010 Designation. In addition to any powers and duties conferred upon the commission by other chapters in this title, the commission shall have the powers and duties conferred by this chapter. (Ord. 5148 § 1 (part), 1993)

16.05.020 Consultant. The commission shall have the power to retain a consultant to advise the commission. Any agreement for consulting or other services which involve an expenditure of city funds shall be subject to the approval of the City Council. (Ord. 5148 § 1 (part), 1993)

16.05.030 Cooperation with State Preservation Officer. The commission shall work with the state preservation officer in attempting to include designated improvements on sites on the National Register of Historic Places. The commission may make a recommendation to the State Office of Historic Preservation for the listing of an historical district or site in the National Register of Historic Places and may conduct a public hearing thereon. (Ord. 5148 § 1 (part), 1993)

16.05.040 Continuing education. The commission will work toward the continuing education of the citizens of Council Bluffs concerning the historical heritage of the city. (Ord. 5148 § 1 (part), 1993)

16.05.050 Cooperation with private groups. The commission will work toward encouraging and promoting the close cooperation of an individuals groups, associations, agencies, departments and commissions, in achieving and perpetuating the purpose and intent of this title. (Ord. 5148, Sec. 1 (part), 1993)

16.05.060 Recommend to Zoning Board of Adjustment. The commission shall recommend to the Zoning Board of Adjustment on all conditional uses involving historic sites. (Ord. 5148 § 1 (part), 1993)

16.05.070 Duties and powers subject to the approval of the City Council. The commission shall have the following duties and powers subject to the approval of the City Council:

- (1) The power to accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation;
- (2) The power to acquire by purchase, bequest or donation fee and lessee interest in historic properties adjacent to or associated with historic properties;
- (3) The duty to preserve, restore, maintain and operate historic properties and properties adjacent to or associated with historic properties under the ownership or control of the commission;
- (4) The power to lease, sell and otherwise transfer or dispose of historic properties, subject to rights of public access and other covenants in any manner that would preserve the property;
- (5) The power to contract with the state or federal government or other organizations;
- (6) The duty to make recommendations as to land use, urban renewal, urban revitalization, and other planning actions by the city or governmental agencies as it affects historic preservation.
- (7) The duty to review each project prior to issuance of an alteration permit to assure compliance with established historic preservation plans for both structure and site;
- (8) The duty to promote and conduct an educational and interpretive program on historic properties within its jurisdiction;
- (9) The duty and power to apply for or support an application for federal, state or local funds for the rehabilitation, reconstruction, or other assistance consistent with this title of designated landmarks, landmark sites or improvements within historic districts;
- (10) The duty and power to create guidelines for review of designation applications (as defined in § 16.03.085), including the authority to adopt rules of procedure in connection with the approval or disapproval of Certificates of Appropriateness.

16.05.080 Power to identify historic properties. The commission shall have the power to conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this ordinance. As outlined in Section 16.07.010, the commission may proceed at its own initiative, or may proceed upon a petition from any person, group or association. The commission shall maintain records of all studies and inventories for public use.

16.05.090 Power to prepare historic preservation plans. The commission shall have the authority to prepare or cause to be prepared a plan for the preservation of improvements or sites within the city, utilizing the following procedures:

- (1) The Heritage Preservation Commission shall hold a public hearing when considering establishing historic preservation plans. Notice shall be given as provided by this title. The commission shall vote to approve or reject the plan and forward the recommendation to the Planning Commission. The Planning

Commission shall review and make its recommendations concerning the plans inclusion into the comprehensive plan to the City Council within thirty day's of receipt of the recommendation. The City Council shall hold a public hearing; following the public hearing the council may adopt the plan or parts thereof as part of the comprehensive plan.

(2) In preparing or causing the plan to be prepared, the commission shall include in the plan, but is not limited to, the following:

(a) A written historical survey of the city emphasizing the city's architectural and planning character and revealing the dominant influences and historic contexts related to its development;

(b) A photographic record of proposed historic property in the city, showing the relationship to the historic properties' environment, and a comparison of such photographs of the property to determine changes and to assist in establishing criteria for restoration;

(c) A listing of improvements and sites deemed worthy of local designation and/or listing on the National Registry of Historic Places;

(d) A survey of existing land uses surrounding any designated improvements or site and proposals for future land uses to help encourage preservation of historic properties and provide the most appropriate setting for these properties;

(e) Proposals for historic districts showing long-ranged, three-dimensional development and appearance goals emphasizing a structure in relationship to its environment as reflected in the criteria for historic district plans.

(3) The commission shall revise and update the plan as is consistent with the purpose and intent of this title.

Chapter 16.07

DESIGNATION OF LANDMARKS, LANDMARK SITES AND HISTORIC DISTRICTS

Sections:

16.07.005	Designation criteria
16.07.010	Proposal of landmarks, landmark sites and historic districts
16.07.020	Procedure
16.07.025	Plan
16.07.030	Notice
16.07.040	Effective date
16.07.050	Amendment and rescission
16.07.060	Extension of time
16.07.080	Design guidelines

16.07.005 Designation criteria. In considering a designation application, the following criteria shall be considered:

- (1) If it has historical and cultural importance, having significant character, interests or value, as part of the development, history or cultural characteristic of the city, state or nation;
- (2) If it is associated with the life of a person significant in the past;
- (3) If it is the site of a significant historical event;
- (4) If it exemplifies or reflects a cultural, political, economic, social or historic heritage of the city, state or nation;
- (5) If it has potential for yielding information of archeological significance;
- (6) If it embodies distinctive elements of an architectural or an engineering type, style, materials or method of construction;
- (7) If it is representative of the notable work of a master builder, designer or architect whose individual genius influenced the city, state or nation;
- (8) If it represents an established or familiar visual feature of the neighborhood, community or city due to its unique location or singular physical characteristics;
- (9) If it has geographical importance by being part of or related to square, park, or other distinctive area and should be developed or reserved according to a plan based on an historic, cultural or an architectural motif;
- (10) If it has a relationship to a landmark, landmark site or historic district;
- (11) If it has integrity as a natural environment that significantly contributes to the quality of life in the city. (Ord. 5148 § 1 (part), 1993)

16.07.010 Proposal of landmarks, landmark sites and historic districts.

- (a) The commission shall have the authority to recommend designation of landmarks, landmark sites and historic districts, either upon its own initiative, or upon the petition of owners of affected property.

(b) If upon the petition of owners of affected property, the petitioner shall submit a designation application which includes, but is not limited to the following:

- (1) Written consent by the owners of fifty-one percent or more of the area of the lots included in the proposed district;
- (2) Legal descriptions of the properties located within the proposed district;
- (3) A vicinity map showing the general location of the proposed district;
- (4) A statement explaining both the historical significance of the proposed district and how the public welfare is furthered by designation;
- (5) A map showing the existing zoning and land uses within the proposed district;
- (6) The signatures of the petitioners.

(c) If upon the commission's own initiative, the commission shall submit a designation application which includes, but is not limited to the following:

- (1) Legal descriptions of the properties located within the proposed district;
- (2) A vicinity map showing the general location of the proposed district;
- (3) A statement explaining both the historical significance of the proposed district and how the public welfare is furthered by designation;
- (4) A map showing the existing zoning and land uses within the proposed district;
- (5) A statement that the designation application was filed by the commission.

(Ord. 5345, Sec. 1, 9/8/97)

16.07.015 Concurrent consideration. All applications for designation on the National Register of Historic Places shall also be treated as a designation application and shall concurrently be reviewed by the Heritage Preservation Commission as a Local Landmark, Landmark Site or Historic District. (Ord. 5328, Sec. 2, 6/23/97)

16.07.020 Procedure. The following procedure shall be followed in designating a landmark, landmark site or historic district:

- (1) Filing with the Heritage Preservation Commission. The designation application shall be filled with the Heritage Preservation Commission.
- (2) Public Hearing. A public hearing by the commission shall be held prior to any designation recommendation, as set forth in Section 16.07.030.

(3) Recommendation of Commission. After such investigation as the commission deems necessary, the commission shall recommend to approve, disapprove or modify the proposal within sixty days of the referral of the petition to the commission. The recommendation shall be in writing and signed by the commission chair and shall state the findings of fact which constituted the basis of the decision. The commission shall notify the petitioner of its decision.

(4) Transmittal of proposal. Within seven days after making such determination, the commission shall transmit the proposal and the recommendation to the State Historic Preservation Officer for review and comment.

(5) Consideration by City Planning Commission. Following review and comment by the State Historic Preservation Officer, the Planning Commission shall consider the proposed designation in the same manner as a rezoning request is considered.

(6) Transmittal by Planning Commission. The Planning Commission shall transmit the recommendation and findings of both the Heritage Preservation Commission and the Planning Commission to the City Council.

(7) Consideration by City Council. The City Council shall consider concurrently the historic designation and rezoning for approval or disapproval and forward the determination to the commission for further action. (Ord. 5328, § 2, 6/23/97)

16.07.025 Plan. In addition to the application required in section 16.07.020, each applicant must provide a written plan with supporting documents to the director before the requested designation will be considered by the commission. The plan and supporting documents shall include, but not be limited to title, boundaries, legal descriptions, names and mailing address of each parcel of real property located within the proposed district, historical significance of the proposed district, type of designation requested, explanation of importance of district, plan for preservation, review criteria for requested modifications to existing structures in district and such other matters as the director shall determine. The director may also request any supplemental or supporting documents as the director deems necessary or useful in considering the request for designation. (Ord. 5531, Sec. 11, 2/12/00)

16.070.030 Notice. In the case of public hearings, the commission shall meet the following notification requirements:

(1) Written notice shall be given to the owners of the property proposed for designation, the owners within two hundred feet, and those persons who have expressed an interest in receiving notice and who have registered to receive the notice and have paid the required fee. The notice shall be served by the secretary to the last known address or the address as it appears in the records of the county auditor's office.

(2) Failure to send notice by mail to any such property owner where the address of such owner is not so recorded shall not invalidate any proceedings in connection with the proposed designation.

(3) The notice shall include the date, time, place and reason for the public hearing. The notice shall be given not less than five days nor more than twenty days prior to the public hearing. (Ord. 5148 § 1 (part), 1993)

16.07.040 Effective date. Any determination made under the provisions of this section shall be in full force and effect on the date the determination is made. (Ord. 5148 § 1 (part), 1993)

16.07.050 Amendment and rescission. Any designation may be amended or rescinded in the same manner as the original designation was made. (Ord. 5148 § 1 (part), 1993)

16.07.060 Extension of time. Whenever under the provisions of this chapter, the commission is required within a prescribed period of time to make a determination or perform any act in relation to any petition for designation, the petitioner and the commission may extend such period by mutual consent of the involved parties, the consent to be filed in writing to the commission. (Ord. 5148 § 1 (part), 1993)

16.07.080 Design guidelines. It shall be the obligation of the commission to develop design guidelines for each new landmark, landmark site, or historic district which will utilize the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

Chapter 16.09

CERTIFICATE OF APPROPRIATENESS AND CERTIFICATE OF ECONOMIC HARDSHIP

Sections:

16.09.010	Alteration permit
16.09.020	Application
16.09.030	Transmittal of permit
16.09.050	Certificate of Appropriateness
16.09.052	Certificate of Economic Hardship
16.09.055	Procedure for Review
16.09.060	Criteria
16.09.070	Appeals
16.09.080	Staying of decision

16.09.010 Alteration permit. Except as otherwise provided herein, no person shall carry out, permit or cause to be carried out any addition, alteration, removal, demolition, construction, reconstruction, restoration, remodeling or other material change including the interior of any structure which clearly alters the character of the external appearance and is clearly visible from the outside of the structure on a landmark, landmark site or in an historic district without having obtained an alteration permit from the Building Division. Alterations shall include the following activities, which may or may not require a building permit:

- (1) alteration or demolition of porches;
- (2) roof replacements;
- (3) construction, replacement, and alteration of all fences;
- (4) application of synthetic siding;
- (5) replacement of windows;
- (6) construction, replacement, and alteration of substantial landscaping features;
- (7) installation of side wall insulation.

Any and all of the above activities shall hereafter be referred to as "work". (Ord. 5148, § 1(part), 1993)

16.09.020 Application. The building division shall not issue an alteration permit until either a certificate of appropriateness or a certificate of economic hardship has been approved by the commission and filed with the building division. The application shall comply with the commission's guidelines for issuance of a Certificate of Appropriateness.

16.09.030 Transmittal of permit. It shall be the duty of the Building Division to accept applications for alteration permits. Any application for an alteration permit from the Building Division involving any work on a designated landmark, landmark site or structure within an historic district shall be transmitted to and filed with the commission. Ord. 5148 § 1 (part), 1993)

16.09.050 Certificate of appropriateness. The commission shall issue a Certificate of Appropriateness if, upon application and after a public hearing, it finds:

(1) That the property owner or the property owner's representative has established that the proposed alteration or activity complies with the standards for review set forth by this Title and regulated by the commission and conforms to the purpose and intent of this Title; and

(2) That the proposed work will not have an adverse effect on the aesthetic, historic or architectural significance of an historic landmark, landmark site, or neighborhood improvements within an historic district.

16.09.052 Certificate of Economic Hardship. If a Certificate of Appropriateness has been denied, and the commission determines that disapproval of the proposed work or activity would prevent the property owner from earning any reasonable economic return from the property, the commission shall:

(1) Immediately issue a Certificate of Economic Hardship, or;

(2) At its discretion, postpone, for a period not to exceed 180 days, the issuance of a Certificate of Economic Hardship. During this time, the commission shall work with the applicant to investigate and devise strategies which would allow the property owner to earn a reasonable economic return from the property and yet preserve the historical significance of the property. No alteration permit shall be issued during this time unless a Certificate of Appropriateness has been secured. If at the end of the 180 day period, the commission, after a public hearing, finds that the property owner still cannot earn any reasonable economic return from the property, it shall issue a Certificate of Economic Hardship.

16.09.055 Procedure for Review. The following procedures shall be followed prior to the issuance of a Certificate of Appropriateness or a Certificate of Economic Hardship:

(1) Review of Application. Upon the Building Division's filing of an application for an alteration permit to the commission or upon the receipt by the commission of a direct application, the commission shall consider the request as an application for a Certificate of Appropriateness.

(2) Public Hearing. The public hearing shall be held by the commission on applications to it for a Certificate of Appropriateness or a Certificate of Economic Hardship. The hearing shall be within fourteen days after filing by the Building Division with the commission, unless otherwise mutually agreed upon by the applicant and the commission. Notice shall be given as provided in Section 16.04.080.

(3) Commission Action Upon Application. Upon review of the application, if the commission determines that the proposed work is consistent with the criteria for historic preservation, or is of a nature that will not adversely change, destroy or affect the landmark, landmark site or historic district, or is in harmony with the landmark, landmark site or historic district, and is consistent with the intent of this Title, the commission shall grant the Certificate of Appropriateness. If the commission cannot make the above findings, it shall deny the certificate and consider issuance of a Certificate of Economic Hardship, as outlined in Section 16.07.050.

(4) Transmittal to Building Division. The Certificate of Appropriateness or Certificate of Economic Hardship shall be forwarded by the commission to the Building Division within ten days of the decision. In the event of a determination to deny the certificate, the commission shall notify the applicant and the Building Division that the application was disapproved and shall state the reasons for the disapproval. In the case where a disapproval was granted subject to some conditions, the conditions shall be forwarded to the Building Division along with the decision.

(5) Expiration. Approval of a Certificate of Appropriateness is void after six months from the date of approval if the rights and privileges granted thereby have not been executed or utilized, or, if construction work is involved, the work has to actually have been started on the grounds or premises.

(6) Extension. The commission may extend the expiration period upon a showing of good cause. The extension shall be limited to three months and may be granted twice for each original certificate. The extension shall document the reasons for the extension.

(7) Effective Date. Each certificate shall be in effect upon receipt by the Building Division following the commission's determination. (Ord. 5148 § 1 (part), 1993)

(8) Approval Due To Commission Inaction. The failure of the commission to approve or disapprove an application for a Certificate of Appropriateness within ninety (90) days from the date of the filing of an application, unless an extension is agreed upon mutually by the applicant and the commission, shall be deemed to constitute approval; unless within such ninety (90) days the commission has made a determination of economic hardship and has yet to make a decision regarding an issuance of a Certificate of Economic Hardship pursuant to Section 16.07.050 (2).

16.09.060 Criteria. The commission shall utilize the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings when determining the appropriateness of a request.

16.09.070 Appeals. The following procedure shall be followed when appealing a decision of the Heritage Preservation Commission relative to the granting or denying of either a Certificate of Appropriateness or a Certificate of Economic Hardship:

(1) Whenever the commission in a final decision denies an application for a Certificate of Appropriateness or Certificate of Economic Hardship, or whenever the owner of improvements on a landmark, landmark site or in an historic district feels aggrieved by a ruling of the commission regarding an order on repairs, the person(s) involved has the right to appeal to and be heard by the City Council; provided, that he files with the City Clerk on or before ten days following the commission's decision a petition in writing of his intention to appeal. Upon receipt of the petition, the City Clerk shall schedule the public hearing before the City Council not more than forty-five days after the receipt by the Clerk of the petition.

(2) Whenever the commission in a final decision grants an application for a Certificate of Appropriateness or a Certificate of Economic Hardship, the opponent to the granting of such certificate has the right to appeal to the City Council; provided, that there is filed with the City Clerk on or before ten days following the commission's decision a petition in writing of the intention to appeal. Upon receipt of the petition, the City Clerk shall schedule a public hearing before the City Council not more than forty-five days after the receipt by the Clerk of the petition.

(3) Before any such hearing, the City Council shall receive the report and record of the commission. (Ord. 5148 § 1 (part), 1993)

16.09.080 Staying of decision. On any such appeal, the final decision of the commission being appealed shall be stayed pending the outcome of the appeal before the City Council. The City Council may affirm, reverse, or modify the decision of the commission in whole or in part. Nothing herein shall be deemed to deny any persons the right to pursue legal recourse through the court of appropriate jurisdiction. (Ord. 5148 § 1 (part), 1993)

Chapter 16.10

MISCELLANEOUS PROVISIONS

Sections:

16.10.010	Exemption of designated improvements from the city health, building or housing codes
16.10.020	Condition dangerous to life, health or property
16.10.030	Relationship to zoning districts
16.10.040	Nonconforming structures
16.10.050	Historic easements
16.10.060	Property owned by public agencies
16.10.070	Penalties and other remedies
16.10.080	City agency cooperation
16.10.090	Maintenance
16.10.100	Remedying of dangerous conditions
16.10.110	Conformance with regulations
16.10.120	Role of the Zoning Board of Adjustment
16.10.130	Applicability

16.10.010 Exemption of designated improvements from the city health, building or housing codes. The City Council, or its designee, in order to promote the preservation of historic properties within its jurisdiction, may, with due regard to public safety, exempt any improvement or site, designated in conformity with this title, from the application of such standards contained in the city health, fire, building or housing codes, as it, upon recommendation of the Heritage Preservation Commission, determines would otherwise present or seriously hinder the preservation or restoration of such designated site or improvement(s). (Ord. 5148 § 1 (part), 1993)

16.10.020 Condition dangerous to life, health or property. Nothing contained in this title shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any improvement of a landmark or necessary construction, reconstruction, alteration or demolition within an historic district pursuant to the order of any governmental agency or pursuant to any court order for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such case, no approval from the commission shall be required; a copy of such order shall be obtained by the commission or its designee for inclusion in the commission's records. (Ord. 5148 § 1 (part), 1993)

16.10.030 Relationship to zoning districts. The historic district's regulations, as provided herein, are intended to protect, enhance, perpetuate and preserve historic or culturally significant areas or improvements. In all zoning districts lying within the boundaries of the historic district the regulations for both the zoning district and the historic district shall apply. In the event there is a conflict between the regulations of the zoning district and the regulations of the historic district the regulations of the historic district shall apply. (Ord. 5148 § 1 (part), 1993)

16.10.040 Nonconforming structures. Any building in an historic district not in the general style of buildings in that district for which that particular area was so designated, unless otherwise designated as historically or culturally significant by the commission, shall be considered nonconforming. Except for repairs and maintenance required by law, no nonconforming building including signs may be added to, or altered in any way, unless the proposed addition or alteration will increase the degree of conformity in a manner acceptable to the commission, and consistent with the intent and purpose of this title. Any nonconforming building in an historic district which has been damaged by fire, explosion, or act of God to the extent of more than fifty percent of its value, exclusive of the basement or cellar, shall not be restored except in conformity with the requirements of this title. (Ord. 5148 § 1 (part), 1993)

16.10.050 Historic easements. Historic easements on the facades of buildings designated as landmarks or within historic districts may be acquired by the commission with council approval through purchase, donation or condemnation. An historic easement would include any easements, restrictions, covenants or conditions running with the land designed to protect, enhance, perpetuate or preserve the significant features of such buildings designated as a landmark or within an historic district. The commission may assist the owner in preparing such covenant in the interest of preserving the landmark, landmark site or historic district. (Ord. 5148 § 1 (part), 1993)

16.10.060 Property owned by public agencies.

(1) All properties owned by government entities and/or public agencies shall be subject to this chapter in the same manner as private persons.

(2) All visible modifications or additions to public areas within a landmark or historic district, including street furniture, lighting features, signs and paving materials shall be subject to review by the commission. (Ord. 5148 § 1 (part), 1993)

16.10.070 Penalties and other remedies. Any person violating any of the provisions of this title is guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of one hundred dollars or imprisonment for a period of not more than thirty days. A separate offense is deemed committed upon each day during or when a violation occurs or continues. When it appears that the person in charge of an improvement of a landmark, or in an historic district, or of a landmark site, threatens or is about to do; any work in violation of this title, the City Attorney may apply forthwith to an appropriate court for an injunction against such violation of this title. Any buildings or structure which is constructed, altered, repaired, remodeled, reconstructed, removed, moved or demolished, or any use of the premises or the land which is begun or changed subsequent to the time of passage of the ordinance codified in this title and in violation of any of the provisions thereof, is declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction. The course standard for abatement shall be whatever is required to bring the property into conformance with this title. The rights and remedies provided herein are cumulative and are in addition to any other remedies provided by law. (Ord. 5148 § 1 (part), 1993)

16.10.080 City agency cooperation. All boards, commissions, departments and officers of the city shall cooperate with the commission in carrying out the spirit and intent of this title. (Ord. 5148 § 1 (part), 1993)

16.10.090 Maintenance.

(1) Nothing in this title shall be construed to prevent ordinary maintenance or repair at any structure or site where such maintenance or repair does not involve a material change of appearance to the exterior architectural features.

(2) Every owner of a landmark and an improvement in an historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair. This provision shall be in addition to all other provisions of law requiring such improvement to be kept in good repair.

(3) If the commission finds that there are reasonable grounds to believe that improvement on a designated landmark site or in an historic district is structurally unsound or in imminent danger of becoming structurally unsound, the commission shall notify in writing the owner of the improvement on the designated landmark site or in an historic district of such fact. Upon giving of ten days' written notice to the owner of such designated property, a public hearing shall be held to determine if the designated property is structurally unsound or in imminent danger of becoming structurally unsound. At the conclusions of the hearing, if the designated property is determined to be structurally unsound or in danger of becoming structurally unsound, the commission shall notify the owner and the Building Division of the finding.

(4) The owner of the designated property who has been notified by the commission that such property is structurally unsound or in danger of so becoming, shall within ninety (90) days of receipt of such notice abide by the requirements of the Building Division and satisfy the commission that reasonable necessary repairs to safeguard the structural soundness of the designated property have been initiated. If the repairs are not made, or an application for a Certificate of Appropriateness to make such repairs has not been filed, the commission may, upon notice and public hearing, order the work to be done at the expense of the owner of the designated property and in such cases the costs will be assessed against the property.

(5) Any applicant aggrieved by a ruling of the commission under the provisions of this section, may, within thirty days after the ruling, appeal to the City Council. (Ord. 5148 § 1 (part), 1993)

16.10.100 Remedying of dangerous conditions. Nothing contained in this Title shall prohibit the necessary construction, reconstruction, alteration or demolition of any improvement on a landmark site or in an historic district pursuant to order of any governmental agency or pursuant to any court judgment, for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such cases, no approval from the commission shall be required; however, a copy of the order shall be mailed to the commission. (Ord. 5148 § 1 (part), 1993)

16.10.110 Conformance with regulations. Every person in charge of any landmark, landmark site or improvement in an historic district shall maintain it, cause it or permit it to be maintained, within the provisions of this title. (Ord. 5148 § 1 (part), 1993)

16.10.120 Role of the Zoning Board of Adjustment. No appeal shall be made to the Zoning Board of Adjustment from any decision of the commission. (Ord. 5148 § 1 (part), 1993)

16.10.130 Applicability. Nothing in this title shall apply to or affect a building permit issued by the city which has been issued and is outstanding on the effective date of the ordinance codified in this title. (Ord. 5148, § 1 (part), 1993)

16.10.140 Public Hearings.

a. Unless required by the laws of the state of Iowa or this code, the commission does not have to hold a public hearing on any matter before taking action.

b. If the commission is required to hold a public hearing on a matter and another city public body also must hold a public hearing on a matter, then the public hearings may be combined into one public hearing. If the public hearing is held under the provisions regarding notice which governs the other public body, then proper notice shall be deemed to have been given for the commission to act under its authority in this title. Any joint public hearing may be chaired by a representative of this commission or the other public body. Said joint public hearing may be conducted as part of an annual or business meeting of this commission, at a regular or special meeting of the other public body or at a date, time and place designated specifically for said joint hearing.

(Ord.5531, Sec. 12, 2/12/00)